



TEXAS JUVENILE JUSTICE DEPARTMENT

**11209 Metric Boulevard
Building H, Suite A
Austin, Texas 78758**

**REQUEST FOR PROPOSAL
644-7-120416**

TO PROVIDE:

**Pool Infill at
Giddings State School
Giddings, Texas**

PROJECT # 7660-734103-DE040-GID-25INFILLPOOL-2017

Issued: December 7, 2016

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REQUEST FOR PROPOSAL
Texas Juvenile Justice Department
Pool Infill at
Giddings State School

SECTION I GENERAL

1. SCOPE:

In accordance with the provisions of Texas Government Code, Chapter 2166.2533, and Rules and Procedures adopted by the Texas Juvenile Justice Department (TJJD). TJJD is requesting submittal of Proposals, using Bid Proposal form, Exhibit A to provide construction services for a pool infill project at Giddings State School. The selected Contractor will be expected to provide all materials, labor, coordination and supervisory activities necessary to complete construction of this project as more fully described in the Exhibit B, Engineering Report, which includes drawings, specifications and other contract documents.

2. CONTRACT TERM:

It is the intention of TJJD to award a contract for full prime contractor construction services, for successful completion of this project. Services undertaken pursuant to this RFP will be required to commence within fifteen (15) calendar days of delivery of a Project Notice to Proceed.

3. DEFINITIONS:

Addendum: A modification of the specifications issued by the Owner and distributed to prospective Respondents prior to the opening of proposals. Addendum may also be referred to as an Amendment.

Best and Final Offer (BAFO): A formal request made to selected Respondents for revision to the originally submitted Proposal.

Change Order: a written modification of the Contract between the Owner and Contractor, signed by the Owner, the Contractor and the Architect/Engineer.

Contract: Consists of the Request for Proposals with specifications, the design drawings, the Engineering Report, the successful Respondent's response (proposal), the awarded written contract and the Notice to Proceed.

Contractor: The individual, partnership or corporation whose Proposal is accepted and who enters into contract with the Owner.

Owner: The Texas Juvenile Justice Department.

Project Manager: The individual designated by the Owner authorized to represent the Owner during the performance of the contract.

SECTION II PROJECT DESCRIPTION

The Texas Juvenile Justice Department invites competitive sealed proposals for the construction services for a pool infill project at the Giddings State School, 2261 James Turman Road, Giddings, Texas 78942, as further shown in the Contract Documents prepared by TJJD. The project number is as follows:

PROJECT # 7660-734103-DE040-GID-25INFILLPOOL-2017

The successful respondents will be required to meet the following requirements and submit evidence within five days after receiving notice of intent to award from the Owner:

- A. Contractor must have a minimum of five (5) consecutive years of experience as a General Contractor and provide references for Texas Juvenile Justice Department and at least three projects within the last five years that have been completed of a dollar value and complexity equal to or greater than the proposed project.
- B. Contractor must be bondable and insurable at the levels required.

Contractors are required to submit a HUB Subcontracting Plan as detailed in Exhibit C. Failure to submit a completed HUB Subcontracting Plan will result in the bid being rejected from further consideration.

Performance and Payment Bonds in the amount of 100% of the contract amount will be required upon award of a contract. The Owner reserves the right to reject any or all bids, and to waive any informality or irregularity.

All specifications required for this project are included in this RFP and may be posted as separate bid packages.

A non-mandatory pre-proposal conference will be held at 10:00 A.M. CST on Monday, December 19, 2016, at the Giddings State School, 2261 James Turman Road, Giddings, Texas 78942, immediately followed by a job site visit. Additional job site walk-throughs can be scheduled during normal business hours the week of December 19, 2016 to December 22, 2016 for those interested respondents that are unable to attend the pre-proposal meeting. Contact Jason Stork, Maintenance Supervisor by email at jason.stork@tjjd.texas.gov or by telephone at (979) 542-4500.

Proposals are due at 3:00 P.M. CST on Wednesday, January 11, 2017. Proposals will be publicly opened and names read at 3:00 P.M. CST on Wednesday, January 11, 2017, in the lobby of TJJD's administrative offices located at 11209 Metric Blvd., Building H, Suite A, Austin, Texas, 78758. **Only the names of firms submitting a proposal will be read aloud.**

The Texas Juvenile Justice Department requires the Contractor to make a good faith effort to include Historically Underutilized Businesses (HUB) in at least thirty-two point nine percent (32.90%) of the total value of this construction contract award. Not less than the minimum wage rates prescribed in the Special Conditions must be paid on these projects.

Proposals are to remain valid for ninety (90) calendar days following the proposal date.

Provide all materials, labor, coordination and supervisory activities necessary to complete construction of the current project as more fully described in the Exhibit B, Engineering Report, which includes drawings, specifications and other contract documents.

SUBCONTRACTORS:

Subcontractors providing service under the contract shall meet the same requirements and level of experience as required of the respondent. No subcontract under the contract shall relieve the primary respondent of responsibility for the service. If the respondent uses a subcontractor for any or all of the work required, the following conditions shall apply under the listed circumstances:

- A. Respondents planning to subcontract all or a portion of the work shall identify the proposed subcontractors.
- B. Subcontracting shall be at the respondent's expense.
- C. TJJD retains the right to check subcontractor's background and make determinations to approve or reject the use of submitted subcontractors.
- D. The respondent shall be the only contact for TJJD and subcontractors. Respondent shall list a designated point of contact for all TJJD and subcontractor inquiries.

SECTION III PROPOSAL INFORMATION

1. SCHEDULE OF EVENTS: TJJD reserves the right to change the dates shown below.

<u>EVENT</u>	<u>DATE</u>
Issue RFP	12/7/2016
Non-Mandatory Pre-Proposal Conference Giddings State School 2261 James Turman Road Giddings, Texas 78942	10:00 A.M. on 12/19/2016
Job Site Walk-Through	Immediately following Pre-Proposal Conference, 12/19/2016. If unable to attend the Pre-Proposal Conference job site walk-throughs may be scheduled during the week of 12/19/2016 to 1/22/2016.
Deadline for Submission of Written Questions	1/4/2017
Deadline for Submission of Proposals	1/11/2017 @ 3:00 P.M. CDT
Proposal Evaluations	1/12/2017 to 1/17/2017
Interview(s)	TBD (if required)
Award Decision	1/23/2017

Execute Contract; Submit Bonds and Insurance	1/31/2017
Pre-Construction Conference	TBD
Notice to Proceed	TBD
Substantial Completion	TBD

2. PROPOSAL REQUIREMENTS:

3.1 Submission:

- 3.1.1 Respondents shall submit one (1) original and one (1) copy of the proposal that contains all documents, including Exhibit A, Contractor's Proposal Form, Exhibit C HUB Subcontracting Plan, the Exhibit D Contractor's Qualifications Form, the Exhibit H Non-Collusion Affidavit, Exhibit L Execution of Offer, References, Litigation History, and Acknowledgement of Addenda. Pages should be numbered and contain an organized, paginated table of contents corresponding to the section and pages of the proposal.
- 3.1.2 Respondents to this RFP are responsible for all costs of proposal preparation and delivery.
- 3.1.3 Any respondents finding discrepancies between the drawings and specifications, or in doubt as to their exact meaning, shall notify TJJD at once. TJJD, may then, as an option, issue amendment(s) clarifying same. TJJD is not responsible for oral instructions or for misinterpretation of the drawings and specifications. Any respondent who has objections to the use of a material, appliance or method of construction as shown or specified, shall register written objections with TJJD. Otherwise the respondent shall proceed to respond to the work under the stipulation that a satisfactory job is required. In the case of contradictory work item requirements between documents, the more stringent requirement may apply.
- 3.1.4 Respondents will be held to have studied the plans and specifications, to have visited the proposed work site (during the mandatory scheduled site visit), to have satisfactory understanding regarding all existing conditions and measurements, and to have included in the proposal an amount sufficient to cover all work including permits, fees, etc.

- 3.2 **Content:** Below is a summary of required information. Proposals submitted without this information will be evaluated accordingly. TJJD reserves the right, in its sole judgment and discretion, to waive minor technicalities and errors in the best interest of the state. Respondent shall return Exhibit A, Contractor's Proposal Form, the Exhibit C, HUB Subcontracting Plan, the Exhibit D, Contractor's Qualification Form, and the Exhibit H, Non-Collusion Affidavit with the response to proposal. Failure to do so may result in disqualification, and proposals without this information will be scored accordingly.

- 3.2.1 Company Information: Including, but not limited to the following:

- 3.2.1.1 Company description
- 3.2.1.2 Ownership information
- 3.2.1.3 Physical and Mailing address
- 3.2.1.4 Other company locations/offices
- 3.2.1.5 Primary Contact

3.2.1.6 Telephone and facsimile number, and e-mail of company's primary contact

3.2.1.7 11-Digit State of Texas Taxpayer Vendor Identification Number

3.2.2 Relevant Experience and Qualifications: **<20 pts>** Complete and submit the Exhibit D, Contractor's Qualifications Form.

3.2.2.1 Contractor Qualifications: Use Exhibit D, Contractor's Qualification Form to provide this information. Additional pages may be added if necessary. The following minimum requirements are required of contractors:

3.2.2.1.1 Out of state contractors doing business in Texas shall have a Certificate of Authority to do business in Texas. A copy of the certificate shall be submitted with the proposal. Respondent must identify at least three (3) projects within the last five (5) years that have been completed of a dollar value and complexity equal to or greater than the proposed project.

3.2.2.1.2 Demonstrate that the respondent has successfully been in business, or the principals shall have had ownership/executive management in a previous company with comparable type experience, for the services solicited in the RFP.

3.2.2.1.3 Demonstrate Company's or Individual's relevant experience for the type of work solicited in the RFP.

3.2.2.1.4 Names of top management and key employees and each person's duties. Include the background and experience of these employees.

3.2.2.1.5 Provide an Organizational Chart with roles and responsibilities of key individuals assigned to support the project.

3.2.2.2 Negative responses from Owners and Architect/Engineer firms which are familiar with contractor's performance, depending on problems encountered, may be grounds for disqualification.

3.2.2.3 Contractors involved in litigation with Owners or Architect/Engineer firms may be disqualified.

3.2.2.4 Reports filed in the State of Texas Vendor Performance Tracking System (VPTS) may be used in determining qualifications of a respondent. Negative reports may be grounds for disqualification or rescission of a Notice of Award.

3.2.3 Methodology & Budget/Schedule Compliance: **<15 pts>**

3.2.3.1 Proposed Methodology: A detailed plan outlining the methodology intended to be employed by the respondent that demonstrates the processes of implementation regarding the requirements of the RFP Scope of Work into a realized and finished project. This shall include, but not be limited to 1) processes and techniques used to understand the Statement of Work, 2) problem solving, 3) value engineering, 4)

maintaining budgets, 5) maintaining schedules, 6) staff sizing and roles, 7) company workload in proportion to the project outlined in the Statement of Work, and 8) coordination of work with subcontractor's and/or consultants.

- 3.2.4 Compensation and Fees: <60 pts> Include pricing on the Exhibit A, Contractor's Proposal Form, Respondents may not add qualifications, conditions, clarifications or exceptions to the proposal. Any such representation by the respondent may be cause for rejection of the proposal, at the full and sole discretion of TJJD.
- 3.2.5 Exhibit C, HUB Subcontracting Plan: Include all subcontractors on the HUB Sub Plan, and whether they are a HUB firm or not. Complete the remainder of the forms in accordance with the Exhibit A. Failure to do so may render the proposal incomplete and it may be rejected. HUB subcontracting opportunities may be available in the following commodity class/item codes.

<u>Class/Item</u>	<u>Description</u>
210-13	Concrete Forms
570-76	Rebar, Steel
750-21	Cement
750-77	Sand
912-00	Construction Services, General
912-40	Demolition Services
914-30	Concrete

The list above is not, nor is it intended to be, a comprehensive list that identifies all subcontracting opportunities.

- 3.2.5.2 TPASS has posted an MP3 Audio/Video file (with additional text version available) that reviews the HSP by section and gives clear direction in properly completing the HSP. The MP3 file is located at the following link:

<http://www.window.state.tx.us/procurement/prog/hub/hub-forms/>

- 3.2.5.3 If further assistance is needed in preparing the HSP you may contact the TJJD Assistant HUB Coordinator at 512-490-7093 or by e-mail at:

danny.vasquez@tjjd.texas.gov

- 3.2.5.4 Principle Subcontractors: Subcontractors with whom the respondent intends to utilize in performing 15% or more of the Project should be identified on the Exhibit C, HUB Subcontracting Plan. An Exhibit D, Contractor's Qualification Form for each major subcontractor will be required prior to award of a contract for approval by TJJD, but does not need to be included with your proposal.

- 3.2.6 Construction Time: On the Exhibit A, Contractor's Proposal Form, include construction contract time from the date of Notice to Proceed to date of completion. Include any alternate construction time, if applicable.

- 3.2.7 Quality Control Program & Safety Program: <5 pts>:

- 3.2.7.1 Quality Control Program: Quality Assurance / Quality Control: The respondent shall provide the name and job title of the person in the

organization who oversees the quality assurance program. The respondent shall also provide a description of the firm's quality assurance program. TJJD reserves the right to require a copy of the Quality Control Manual and Quality Assurance Processes, which, if contracted, will become a contract document. Respondent shall describe its quality assurance program, quality requirements and means of measurement. Provide process flow charts on how quality is maintained and achieved. The respondent shall describe the firm's policy regarding establishing quality control processes similar to ISO 9000 and other in-place controls for adherence to budget, quality, safety and schedule.

3.2.7.2 Safety Program: Provide the companies workers' compensation experience modification rate - EMR - for the last five years as part of the submittal. This shall be submitted by your insurance carrier on their letterhead. Also, indicate the name and job title of the person in your organization who manages your safety program. Provide a description of your firm's safety program. TJJD reserves the right to require a copy of your safety manual, which after award will become a Contract Document, if your firm's proposal is scored within the highest range of proposals.

3.2.8 Financial Information: **<P/F>** TJJD determines if a company is of sufficient size or is not financially viable to handle a project of this size and scope.

3.2.9 Litigation History: **<P/F>** List all litigation that your company has been involved in within the last three years.

3.2.10 References: **<P/F>** Include company name, project description, contact name, position, telephone number, and email address for each reference listed.

3.2.11.1 Include reference information for the five most recent projects listed on the Exhibit D, Contractor's Qualification Form for schedule and budget compliance.

3.2.11.2 Include at least three additional references for clients for whom similar services as the current project were performed.

3.2.11 Non-Collusion Affidavit: The Non-Collusion Affidavit (Exhibit H) must be enclosed with the bid proposal.

3.3 **Inquiries:**

3.3.1 All inquiries shall be submitted in writing to William Walk by e-mail to:

william.walk@tjtd.texas.gov

3.3.2 All inquiries will result in written responses with copies posted to the Electronic State Business Daily (ESBD) at: <http://esbd.cpa.state.tx.us/>, and Respondents are strongly advised to visit the ESBD on a daily basis for any addenda (amendments) that may be posted. If respondents do not have Internet Access, copies may be obtained via written request from the point of contact listed above. The Respondent's failure to periodically check the Electronic State Business Daily will in no way release the selected Respondent from "addenda or additional information" resulting in additional costs to meet the requirements of the RFP.

Acknowledgment of addenda (amendments) may be submitted with proposal or mailed, faxed or hand carried.

- 3.3.3 Upon issuance of this RFP, beside written inquiries as described above, other employees and representatives of TJJD will not answer questions or otherwise discuss the contents of the RFP with any potential Respondent or their representatives. Failure to observe this restriction may result in disqualification of any subsequent response. This restriction does not preclude discussions between affected parties for the purpose of conducting business unrelated to this proposal.

3.4 **Proposal Submission:**

- 3.4.1 All proposals must be received and time stamped at TJJD prior to 3:00 P.M. Central Standard Time on the date specified in the Schedule of Events. TJJD will **NOT** accept late proposals. Respondent is to submit one (1) unbound original and two (2) bound copies of its proposal. The Respondent may elect to submit one (1) compact disk (CD) containing its proposal in a printable format (i.e., pdf).
- 3.4.2 Proposals should be placed in a separate envelope/package and correctly identified with RFP number, submittal deadline/opening date and time. It is the respondent's responsibility to appropriately mark and deliver the proposal to TJJD by the specified date.
- 3.4.3 Receipt of all addenda to this RFP should be acknowledged by returning a signed copy of each addendum to the response. The Respondent's failure to acknowledge receipt of all addenda (amendments) to this RFP will in no way release the selected Respondent from "addenda or additional information" resulting in additional costs to meet the requirements of the RFP.
- 3.4.4 TJJD will not consider any Proposal that bears a copyright. Proposals will be subject to the Texas Public Information Act, Tex. Gov't Code, Chapter 552, and may be disclosed to the public upon request. In response to a public information request for Respondent's proposal, Respondent may request protection of trade and confidential information from public release in accordance with the procedures described in the Texas Public Information Act. Respondent may indicate the presence of such information by clearly marking each page on which this information appears with "Confidential" in bold face type at least **14 point font**, however all information submitted is subject to the Act and considered for release.

- 3.5 **Delivery of Proposals:** Proposals shall be submitted to TJJD by one of the following methods:

U.S. Postal Service	Overnight/Express Mail	Hand Deliver
TJJD – Contracts ATTN: William Walk RFP 644-7-120416 PO Box 12757 Austin, TX 78711-2757	TJJD – Contracts ATTN: William Walk RFP 644-7-120416 11209 Metric Blvd Building H, Suite A Austin, TX 78758 Hours – 8:00 AM to 5:00 PM	TJJD – Contracts ATTN: William Walk RFP 644-7-120416 11209 Metric Blvd Building H, Suite A Austin, TX 78758 Hours – 8:00 AM to 5:00 PM

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3.6 Proposal Opening:

- 3.6.1 Proposals will be opened at 11209 Metric Blvd, Building H, Suite A, Austin, Texas 78758 at 3:00 P.M. CST on January 11, 2017.
- 3.6.2 Proposals will be received until the date and time established for receipt, then opened. Only the names of the respondents who submitted proposals will be made public. Prices and terms will not be divulged until after contract award.
- 3.6.3 Telephone, facsimile, or e-mail proposals are not an acceptable response to an RFP.
- 3.6.4 All submitted proposals become the property of TJJD after the RFP submittal deadline/opening date.

4. PROPOSAL EVALUATION AND AWARD:

- 4.1 The intent of TJJD is to award a contract to the respondent whose proposal is considered to be the best value to the state. When considering 'best value' and award, the Owner reserves the right to set a minimum requirement regarding the criteria listed above.
- 4.2 An evaluation committee will be established to evaluate the proposals. The committee will include employees of TJJD and may include other impartial individuals who are not TJJD employees. The evaluation committee will evaluate and score each proposal based on the following criteria:

Criteria	Weight
• Compensation and Fees	60%
• Relevant Experience and Qualifications	20%
• Methodology / Budget & Schedule Compliance	15%
• Quality Control / Safety Programs	5%
• References, Litigation, Financial Report	<u>Pass/Fail</u>
	100%

- 4.3 The evaluation committee may conduct an interview of the finalist(s) to make a determination for award recommendation. Scoring of the interview may replace part or all of the scoring of the proposal. The following will be expected during an interview:
 - 4.3.1 A short presentation (approx. 10 - 15 minutes) detailing company history and projects relevant to the current project, and confirmation of information presented in the proposal.
 - 4.3.2 Attendance by team members assigned to the project to represent themselves as to their relevant experience and proposed involvement in the project. Representation by the Project Manager and the Superintendent(s) is key in this interview.
 - 4.3.3 An elaboration of the proposed methodology for the project.
- 4.4 A breakdown of the lump sum into labor and materials values will be required of the highest scoring respondent. The evaluation committee will determine if negotiations are necessary. Award of a contract may be made without negotiations, if in the best interest of the State. The evaluation committee will evaluate the finalists and make a recommendation for award.

- 4.5 Right to Audit: Respondent understands that acceptance of funds under the contract acts as acceptance of the authority of the State Auditor's Office, TJJD or any successor agency, to conduct an audit or investigation in connection with those funds. Respondent further agrees to cooperate fully with the above parties in the conduct of the audit or investigation, including providing all records requested. Respondent shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Respondent and the requirement to cooperate is included in any subcontract it awards.
- 4.6 Past Performance: A Respondent's past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of §§2155.074, 2156.007, 2157.003, and 2157.125, Gov't Code. Respondents may fail this selection criterion for conditions including, but not limited to:
- A score of less than 90% in the Vendor Performance System;
 - Currently under a Corrective Action Plan through the Comptroller of Public Accounts (CPA);
 - Having repeated negative Vendor Performance Reports;
 - Having purchase orders that have been cancelled in the previous 12 months for non-performance (i.e., late delivery, etc.).

Contractor performance information is located on the CPA web site at:

http://www.window.state.tx.us/procurement/prog/vendor_performance/

TJJD may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.108), TJJD may examine other sources of vendor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Any such investigations shall be at the sole discretion of TJJD, and any negative findings, as determined by TJJD, may result in non-award to the Respondent.

5. REDACTED ELECTRONIC COPY:

To ensure compliance with Tex. Gov't Code §322.020, no later than two (2) business days after Awarded Respondent's receipt of notice from Texas Juvenile Justice Department of Awarded Respondent's tentative contract award, the Awarded Respondent (and no other Respondents) must deliver to Texas Juvenile Justice Department one (1) electronic copy of its complete proposal. Awarded Respondent shall deliver these electronic copies to Texas Juvenile Justice Department via overnight delivery in compliance with all of the following requirements:

Two (2) identical CDs containing a copy of Awarded Respondent's Proposal, in searchable pdf format, which has excised, blacked out, or otherwise redacted information from its Proposal that Awarded Respondent reasonably considers to be confidential and exempt from public disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code (this should be a de minimis portion, if any, of Awarded Respondent's Proposal, such as social security numbers). Each CD shall also contain an Appendix for Awarded Respondent's Proposal which provides a cross reference for the location of all information redacted by Awarded Respondent and a general description of the redacted information. These two (2) identical CDs should be entitled "For Public Release: Redacted Version of [Name of Awarded Respondent]'s Proposal and Exhibits. Texas Juvenile Justice Department's RFP No. 644-6-021016."

The Texas Legislative Budget Board has now implemented this contracts database. For information regarding the LBB website, go to:

<http://www.statutes.legis.state.tx.us/SOTWDocs/GV/htm/GV.322.htm#322.020>

See the LBB website at www.lbb.state.tx.us <<http://www.lbb.state.tx.us/>>. Texas Juvenile Justice Department shall upload to the LBB's contracts database the text of the complete contract (with limited redaction and appendix) no later than ten (10) days after date of contract award. In submitting a Proposal in response to this RFP, Respondents acknowledge that they understand and accept this requirement.

SECTION IV INSTRUCTIONS, CONDITIONS AND NOTICES TO BIDDERS

1. AMENDING AND MODIFYING BIDS/PUBLIC DISCLOSURE OF BIDS

No bid may be changed, amended or modified (by telegram or otherwise) after it has been submitted. A bid may be withdrawn, however, and be resubmitted at any time prior to the time set for bid opening.

After award of contract, information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act").

2. REJECTION OF BIDS

- A. Any bid that fails to conform to the essential requirements of the invitation for bids shall be rejected.
- B. Any bid that does not conform to the applicable specifications shall be rejected unless the invitation authorized the submission of alternate bids and the supplies offered as alternates meet the requirements specified in the invitation.
- C. Any bid that fails to conform to the delivery schedule or permissible alternates stated in the invitation shall be rejected.
- D. A bid shall be rejected when the bidder imposes conditions that would modify requirements of the invitation or limit the bidder's liability to the Owner, since to allow the bidder to impose such conditions would be prejudicial to other bidders.
- E. Bids received from any person or concern that is suspended, debarred, proposed for debarment, or declared ineligible as of the bid opening date shall be rejected unless a compelling reason determination is made.
- F. Low bids received from concerns determined to be not responsible.
- G. All timely bids received will be opened and read irrespective of minor informalities or irregularities.

3. NOTICE TO BIDDERS OF REJECTION OF ALL BIDS.

When it is determined necessary to reject all bids, the Owner shall notify each bidder that all bids have been rejected and shall state the reason for such action.

4. MINOR INFORMALITIES OR IRREGULARITIES IN BIDS.

A minor informality or irregularity is one that is merely a matter of form and not of substance. It also pertains to some immaterial defect in a bid or variation of a bid from the exact requirements of the invitation that can be corrected or waived without being prejudicial to other bidders. The defect or variation is immaterial when the effect on price, quantity, quality or delivery is negligible when

contrasted with the total cost or scope of the supplies or services being acquired. The Owner either shall give the bidder an opportunity to cure any irregularity in a bid or waive the deficiency, whichever is to the advantage of the Owner.

5. SUBSTITUTIONS

- A. Bidder requesting substitutions shall **submit written request to TJJD no later than five (5) calendar days prior to the time set for receipt of bids.**
- B. Any approvals of substitutions will be given by Addendum to each entity holding bid documents.

6. BID ACCEPTANCE

It is understood that the Owner reserves the right to accept or reject any and all bids and to waive all irregularities.

7. DOCUMENT AVAILABILITY

- A. Bid Documents can be obtained from the TJJD as stated previously.
- C. Ownership of documents: All documents are the property of the Texas Juvenile Justice Department.

SECTION V GENERAL PROVISIONS

1. Specifications

The services performed shall be in accordance with the specifications in the contract. TJJD will decide the answers to all questions that may arise as to the interpretation of the specifications and the quality, or acceptability of work performed. TJJD will decide the rate of progress of the work and the acceptable fulfillment of the service on the part of the Contractor.

2. Funding Out

The contract is contingent upon the continued availability of funding. If funds become unavailable through lack of appropriations, legislative budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruption of current appropriations, provisions of the contract's Termination Article shall apply. In addition, state agencies are prohibited from incurring obligations in excess of amounts lawfully appropriated by the Texas Legislature over the course of a biennium.

3. Venue

The contract for this procurement shall be governed, construed and interpreted under the laws of the State of Texas. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Travis County, Texas.

4. Assignment

The contract is void if sold or assigned to another company without written approval of TJJD. Written notification of changes to company name, address, telephone number, etc. shall be provided to TJJD as soon as possible, but not later than thirty (30) calendar days from the date of change.

5. Public Information Act

Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act").

6. Advertising of Award

The Contractor agrees not to refer to awards in commercial advertising in such a manner as to state or imply that the product or service provided is endorsed or preferred by the Department or is considered by the Department to be superior to other products or services.

7. Payment

Payments shall be made in accordance with Section VI, Bid Schedule.

8. Availability of Funds for Next Fiscal Year

Funds are not presently available for performance under the contract beyond August 31, 2016. TJJD's obligation for performance of the Contract beyond that date is contingent upon legislative approval and the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of TJJD for any payment may arise for performance under the Contract beyond contract term end date, until funds are made available to TJJD for performance and until the Contractor receives notice of availability, to be confirmed in writing by TJJD.

9. Patents or Copyrights

Contractor shall indemnify, defend, and hold harmless TJJD and the State of Texas from claims involving infringement of patent or copyrights.

10. Right to Data, Documents And Computer Software (State Ownership)

Any software, research, reports studies, data, photographs, negatives or other documents, drawings or materials prepared by contractor in the performance of its obligations under the contract shall be the exclusive property of the State of Texas and all such materials shall be delivered to the State by the contractor upon completion, termination, or cancellation of the contract. Contractor may, at its own expense, keep copies of all its writings for its personal files. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of contractor's obligations under the contract without the prior written consent of the State; provided, however, that contractor shall be allowed to use non-confidential materials for writing samples in pursuit of the work. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.

11. Intellectual Property Indemnification

The contractor will indemnify, defend and hold harmless the State of Texas and TJJD against any action or claim brought against the State of Texas and/or TJJD that is based on a claim that software infringes any patent rights, copyright rights or incorporated misappropriated trade secrets. Contractor will pay any damages attributable to such claim that are awarded against the State of Texas and/or TJJD in a judgment or settlement.

If TJJD's use of the software becomes subject to a claim, or is likely to become subject to a claim, in the sole opinion of TJJD contractor shall, at its sole expense (1) procure for TJJD the right to

continue using such software under the terms of the contract; or (2) replace or modify the software so that it is non-infringing.

12. Anti-Trust

Contractor represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation, partnership, or institution has (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the Proposal to any competitor or any other person engaged in such line of business during the procurement process for the contract.

13. Order of Precedence

In the event of conflicts or inconsistencies between the contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- A. Contract, including any Exhibits and Attachments (including A&E drawings & Engineering Report);
- B. Respondent's Best and Final Offer (BAFO) (if needed);
- C. Respondent's proposal, including HUB Subcontracting Plan; and
- D. TJJD's Request for Proposals 644-7-120416

14. Substitutions

Substitutions are not permitted without the written approval of TJJD.

15. Independent Contractor

Both parties hereto, in the performance of the contract, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for Contractor's employees.

16. Abandonment or Default

If the contractor defaults on the contract, TJJD reserves the right to cancel the contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible respondent. The defaulting contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by TJJD based on the seriousness of the default.

17. Right to Audit

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under a contract or indirectly through a subcontract under the contract. Acceptance of funds directly under the contract or indirectly through a subcontract under the contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor shall ensure that this paragraph,

concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate, is included in any subcontract it awards.

Contractor shall maintain and retain supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with TJJD and State of Texas requirements. Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of seven (7) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TJJD, the State of Texas, or their authorized representatives. Contractor shall cooperate with auditors and other authorized TJJD and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TJJD or the State of Texas. Contractor's failure to comply with this Article shall constitute a material breach of this Contract and shall authorize TJJD to immediately assess the liquidated damages. TJJD may require, at Contractor's sole cost and expense, independent audits by a qualified certified public accounting firm of Contractor's books and records or the State's property. The independent auditor shall provide TJJD with a copy of such audit at the same time it is provided to Contractor. TJJD retains the right to issue a request for proposals for the services of an independent certified public accounting firm under this Contract.

TJJD may unilaterally amend this Contract to comply with any rules and procedures of the State Auditor.

18. Force Majeure

TJJD may grant relief from performance of the contract if Contractor is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of Contractor. The burden of proof for the need of such relief shall rest upon Contractor. To obtain release based on force majeure, Contractor shall file a written request with TJJD.

19. Proprietary or Confidential Information

Qualifications submitted and the Contract may include proprietary or confidential information. Subject to the provisions of the Texas Public Information Act TJJD will take reasonable precautions in protecting such information provided that it is clearly identified as proprietary or confidential on the page on which it appears.

20. No Waiver

Nothing in the contract will be construed as a waiver of the State's sovereign immunity. The contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under the contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or considered as a basis for estoppel. TJJD does not waive any privileges, rights, defenses, remedies, or immunities available to TJJD by entering into the contract or by its conduct prior to or subsequent to entering into the contract.

21. Limitation on Authority; No Other Obligations

Contractor shall have no authority to act for or on behalf of TJJD or the State of Texas except as expressly provided for in the contract; no other authority, power or use is granted or implied. The Contractor may not incur any debts, obligations, expenses or liabilities of any kind on behalf of the State of Texas or TJJD.

22. Deceptive Trade Practices; Unfair Business Practices

Contractor represents and warrants that it is not the subject of allegations of Deceptive Trade Practices violations under Texas Business & Commerce Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that the Contractor has not been found liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

23. Notices

Required notices will be provided to the TJJD Contract Administrator, TJJD Contracts Department at attention: William Walk, 11209 Metric Blvd., Building H, Suite A, Austin, Texas 78758; to Steven Vargas, TJJD Director of Construction, 11209 Metric Blvd., Building H, Suite A, Austin, Texas 78758; and to the Contractor at TBD.

24. Taxes

Purchases made for state uses are exempt from Texas State Sales Tax and Federal Excise Tax. An Excise Tax Exemption Certificate will be furnished upon written request to TJJD.

25. Public Disclosure

No public disclosures or news releases pertaining to the contract shall be made without prior written approval of TJJD.

26. Violation of Federal Law Relating To Reconstruction Efforts As A Result Of Hurricanes Rita, Katrina Or Any Other Disaster After September 24, 2005

Pursuant to Section 2261.053, Government Code a state agency may not accept a proposal or award a contract that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal law or accessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Katrina, or any other disaster occurring after September 24, 2005. Under Section 2261.053, Government Code, the Contractor certifies that the individual or business entity named in this proposal or contract is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.

27. Confidentiality and Security

Section 1: Contractor agrees that all its employees will comply with state and federal law and with TJJD policies regarding the confidentiality of student/youth records and identifying information.

Section 2: Contractor agrees that all information regarding TJJD and/or its youth that is gathered, produced, or otherwise derived from the contract shall remain confidential subject to release only by permission of TJJD.

Section 3: Upon termination or expiration of the Agreement, Contractor agrees to return or destroy and certify the destruction of all student/youth records.

Section 4: Contractor agrees any confidential information provided to or developed by the Contractor in the performance of the Contract shall be kept confidential unless otherwise provided by law and shall not be made available to any individual or organization by the Contractor or TJJD without prior approval of the other party.

28. Indemnification

The Contractor shall indemnify, defend, and hold harmless, the State of Texas, TJJD, and its officers, agents and employees (hereinafter the State) harmless from and against:

1. Any and all claims arising from the conduct, management or performance of the Contract by Contractor, its agents, subcontractors or employees, including, without limitation, any and all claims or arising from:
 - a. Any breach or default on the part of the Contractor in the performance of any covenant or agreement on its part to be performed, pursuant to the terms of the Contract;
 - b. Any act or negligence of the Contractor or any of its agents, subcontractors, servants, employees or licensees;
 - c. Any accident, injury or damage whatsoever caused to any person, firm or corporation.
2. All costs, reasonable attorney's fees, expenses and liabilities incurred in or about any such claim, action or proceeding brought thereon.

Nothing herein is intended to deprive the State or Contractor of the benefits of any law limiting exposure to liability and/or setting a ceiling on damages, or any laws establishing defenses for them. By entering into the Contract, the State does not waive its right of sovereign immunity, nor does the Contractor waive any immunity that may extend to it by operation of law. The aforementioned indemnification shall not be affected by a claim that negligence of the State or its respective agents, contractors, employees or licensees contributed in part to the loss or damage indemnified against.

29. Buy Texas

Pursuant to Texas Government Code § 2155.4441, Contractor shall, in performing the contract, purchase products and materials produced in the State of Texas when they are available at a price and time comparable to products and materials produced outside the State of Texas.

30. Records Retention

Contractor is aware of and in compliance with records retention requirements and a plan has been developed for contract file maintenance. TJJD requires a record retention period of seven (7) years after contract expiration.

31. No Liability Upon Termination

If the Contract is terminated for any reason, TJJD and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Contractor may be entitled to the remedies provided in Government Code, Chapter 2260.

32. Fingerprint and Background Check

Contractor will:

1. As directed, provide information regarding persons providing services under this Agreement and personnel access for a criminal background check including, but not limited to, fingerprinting check, criminal records check, sex offender registration records

- check, and drug test. Criminal background checks shall be conducted at TJJD's expense and through TJJD or TJJD's contract providers for each of the Contractor's employees, agents, consultants, subcontractors, subcontractor's employees, and volunteer workers. Any Contractor employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker who is unwilling to provide or who does not provide required information will not be allowed to work under this agreement. Any Contractor employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker shall not work under this agreement until the criminal background check is completed and approval is obtained from TJJD's Director of Human Resources.
2. Notify TJJD's Director of Human Resources of any employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker who works with TJJD youth and who is arrested, indicted, or charged with a criminal offense or who resigns while under investigation for inappropriate conduct or policy violations. Such employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker shall be immediately suspended from working under this agreement unless authorized by TJJD's Director of Human Resources.

TJJD will approve or deny any Contractor employee, agent, consultant, subcontractor, subcontractor's employee, or volunteer worker in accordance with TJJD policies and procedures. TJJD's designated contact for criminal background checks is the Director of Human Resources (512) 459-2501.

33. Severability Clause

In the event that any provision of the Contract is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of the Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

34. Prohibited Use of Appropriated Or Other Funds Under Control Of State Agency; Lobbying

The Contractor represents and warrants that ordering entities' payments to the Contractor and Contractor's receipt of appropriated or other funds under any of this or any resulting agreement are not prohibited by Texas Government Code §556.005 or §556.008.

35. Fraud, Waste or Abuse

In accordance with Texas Government Code, Chapter 321, the State Auditor's Office (SAO) is authorized to investigate specific acts or allegations of impropriety, malfeasance, or nonfeasance in the obligation, expenditure, receipt or use of state funds. If there is a reasonable cause to believe that fraud, waste or abuse has occurred at this agency, it can be reported to the SAO by calling 1-800-892-8348 or at the SAO's website at www.sao.state.tx.us. It can also be reported to the TJJD Office of the Inspector General at 1-512-490-7130, 11209 Metric Boulevard, Bldg. H., Suite A, Austin, Texas 78758.

36. Immigration

Contractor agrees to comply with the Immigration Reform and Control Act of 1986, and Immigration Act of 1990 regarding employment verification and retention of verification forms of any individuals who will perform any labor or services under the contract.

37. Historically Underutilized Business (HUB) Representation

Definition:

“Historically Underutilized Business” means an entity with its principal place of business in this State that is:

- A. A corporation formed for the purpose of making a profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the corporation’s control, operation and management;
- B. A sole proprietorship created for the purpose of making a profit that is completely owned, operated and controlled by an economically disadvantaged person;
- C. A partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership’s control, operation and management;
- D. A joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this subdivision; or
- E. A supplier contract between a historically underutilized business as determined under another paragraph of this subdivision and a prime Offeror under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods.

“Economically disadvantaged person” means a person who is economically disadvantaged because of the person’s identification as a member of a certain group including Black Americans, Hispanic Americans, women, Asian Pacific Americans and Native Americans and who has suffered the effects of discriminatory practices or other similar insidious circumstances over which the person has no control.

HUB Representation:

The Offeror represents as part of its offer that it [] is, or [] is not a HUB certified by the Texas Procurement and Support Services (TPASS).

38. Recycled Materials

The Texas Juvenile Justice Department is required to (1) eliminate procedures and specifications that discriminate against products made of recycled materials and (2) encourage the use of products made of recycled materials. If product(s) being bid on this solicitation (a) contains recycled material whether post-consumer or pre-consumer; or (b) is a product that has been remanufactured, rebuilt, or otherwise restored to a like new condition, respondent shall, as part of the bid response, indicate on the appropriate line item if product has recycled content.

SECTION VI INSPECTION AND ACCEPTANCE

1. Inspection and acceptance shall be as stated in the contract documents. The owner hereby reserves the right to perform inspections of the work and any and all inspections performed by the owner or by others for the owner shall be for the sole benefit of the owner. Quality control is and shall remain one hundred percent (100%) the responsibility of the contractor.

2. INSPECTION OF CONSTRUCTION

- (a) **Definition:** "Work" includes, but is not limited to, materials, workmanship, and manufacture and fabrication of components.
- (b) The Contractor shall maintain an adequate inspection system and perform such inspections as will ensure that the work performed under the contract conforms to contract requirements. The Contractor shall maintain complete inspection records and make them available to the Owner. All work shall be conducted under the general direction of the Owner and is subject to Owner inspection and test at all places and at all reasonable times before acceptance to ensure strict compliance with the terms of the contract.
- (c) Owner inspections and tests are for the sole benefit of the Owner and do not - -
 - (1) Relieve the Contractor of responsibility for providing adequate quality control measures;
 - (2) Relieve the Contractor of responsibility for damage to or loss of the material before acceptance;
 - (3) Constitute or imply acceptance; or
 - (4) Affect the continuing rights of the Owner after acceptance of the completed work under paragraph (i) of this section.
- (d) The presence or absence of an Owner inspector does not relieve the Contractor from any contract requirement, nor is the inspector authorized to change any term or condition of the specification without the Owner's written authorization.
- (e) The Contractor shall promptly furnish, at no increase in contract price, all facilities, labor, and material reasonably needed for performing such safe and convenient inspections and tests as may be required by the Owner. The Owner may charge to the Contractor any additional cost of inspection or test when work is not ready at the time specified by the Contractor for inspection or test, or when prior rejection makes re-inspection or retest necessary. The Owner shall perform all inspections and tests in a manner that will not unnecessarily delay the work. Special, full size and performance tests shall be performed as described in the contract.
- (f) The Contractor shall, without charge, replace or correct work found by the Owner not to conform to contract requirements, unless in the public interest the Owner consents to accept the work with an appropriate adjustment in contract price. The Contractor shall promptly segregate and remove rejected material from the premises.
- (g) If the Contractor does not promptly replace or correct rejected work, the Owner may - -
 - (1) By contract or otherwise, replace or correct the work and charge the cost to the Contractor; or
 - (2) Terminate for default the Contractor's right to proceed.

- (h) If, before acceptance of the entire work, the Owner decides to examine already completed work by removing it or tearing it out, the Contractor, on request, shall promptly furnish all necessary facilities, labor, and material. If the work is found to be defective or nonconforming in any material respect due to the fault of the Contractor or its subcontractors, the Contractor shall defray the expenses of the examination and of satisfactory reconstruction. However, if the work is found to meet contract requirements, the Owner shall make an equitable adjustment for the additional services involved in the examination and reconstruction, including, if completion of the work was thereby delayed, an extension of time.
- (i) Unless otherwise specified in the contract, the Owner shall accept, as promptly as practicable after completion and inspection, all work required by the contract or that portion of the work the Owner determines can be accepted separately. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or the Owners rights under any warranty or guarantee.

SECTION VII DELIVERIES OR PERFORMANCE

1. CONTRACT TIME

The performance period for the contract shall be determined at time of award, and shall begin upon receipt of written notice to proceed. All work shall be complete within the amount of calendar days specified on the Notice to Proceed, unless otherwise modified by written agreement of the contracting parties.

2. LIQUIDATED DAMAGES - FAILURE TO COMPLETE WITHIN CONTRACT TIME

- (a) If the Contractor fails to complete the work within the time specified in the contract, or any extension, the Contractor shall pay to the Owner as liquidated damages, the sum of \$500.00, (Five Hundred dollars) for each calendar day of delay.
- (b) If the owner terminates the Contractor's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the work together with any increased costs occasioned by the owner in completing the work.
- (c) If the Owner does not terminate the Contractor's right to proceed, the resulting damage will consist of liquidated damages until the work is completed or accepted.

SECTION VIII CONTRACT ADMINISTRATION DATA

1. POINT OF CONTACT

- (a) The Contractor's Contract Administrator and/or Project Manager will obtain approval from TJJD for all field orders and change orders regardless of dollar amount including changes with no cost.
- (b) All change orders are reviewed pursuant to 37 TAC 385.1101.
- (c) The TJJD Contract Administrator is the primary point of contact for the administration of all matters related to bonds, insurance, disputes, and claims. The TJJD Contracts Manager will chair negotiations for all change orders and field orders estimated to exceed \$25,000. In addition, the TJJD Contract Administrator will provide oversight for all contractual matters in coordination with the TJJD Project Manager and the TJJD Chief Financial Officer.

- (d) The TJJD Project Manager is the primary point of contact for all onsite construction activities. All documents, correspondence, request for changes, not-to-exceed field orders, progress reports, requests for meeting, pre-final and final inspections and any and all other activities pertinent to the performance and daily onsite administration of the contract shall be coordinated with, flow through, or be issued by the TJJD Project manager unless otherwise excepted in the Contract documents.
- (e) The TJJD Assistant HUB Coordinator is the primary point of contact concerning the TJJD HUB Program. HUB reports required in Exhibit C will be provided to the TJJD Assistant HUB Coordinator.

2. PAYMENTS

Payments may be made by means of electronic funds transfer (EFT) otherwise known as Direct Deposit. Attached are instructions and the form for use in establishing a Direct Deposit Account. The Direct Deposit Authorization form must contain original signatures of the Contractor and Financial Institution to which payments are to be transmitted. Payment by Direct Deposit is preferred but is not mandatory.

SECTION IX REPRESENTATIONS, CERTIFICATIONS AND OTHER STATEMENTS OF RESPONDENTS

1. HISTORICALLY UNDERUTILIZED BUSINESSES HUB REPRESENTATION

The Respondent agrees that, if awarded the Contract, it will have "Historically Underutilized Businesses", participate in the work to the extent possible of the Contract as awarded. Such participation in the Work means that amounts will be paid to such Historically Underutilized Businesses for work done under subcontract, for the supply of materials to be incorporated in the Work, and (if the Respondent itself is a Historically Underutilized Business) for work accomplished by the Respondent with its own forces.

2. FRANCHISE TAXES REPRESENTATION

The Respondent represents and certifies as part of its offer that it is not currently delinquent in the payment of any franchise tax owed the State of Texas.

3. NO COLLUSION

Respondent represents and certifies its employees, agents and representative have not and shall not discuss or disclose the terms of their bid and its submission or response thereto with any third party other than persons or entities which Respondent engaged to assist it with respect to such response or submission.

Neither the Respondent nor the firm, corporation, partnership or institution represented by the Respondent or anyone acting for such firm, corporation or institution has violated the antitrust laws of the State or the Federal Antitrust Laws, nor communicated directly or indirectly the bid submitted to any competitor or any other person engaged in such line of business.

4. NO GRATUITIES

The Respondent represents and certifies that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted bid.

5. NO COMPENSATION

Respondent represents and certifies that its employees, agents and representatives have not received compensation for participation in the preparation of the specifications for this solicitation.

6. HUMAN IMMUNO-DEFICIENCY VIRUS SERVICES ACT COMPLIANCE

Section 1: Respondent certifies compliance with the Human Immunodeficiency Virus Services Act, [Texas Health and Safety Code Chapter 85] requirements for maintenance of confidentiality regarding HIV and its related conditions, including Acquired Immuno-Deficiency Syndrome (AIDS).

Section 2: Respondent further certifies that it has developed and implemented workplace guidelines in accordance with the Human Immunodeficiency Virus Services Act. Respondent may elect to use workplace guidelines developed and implemented by TJJD. Should Respondent not elect to use workplace guidelines developed and implemented by TJJD, Respondent agrees its workplace guidelines shall be similar to TJJD's as required by §85.113, Texas Health and Safety Code.

Section 3: In the absence of confidentiality guidelines, Respondent is not eligible to receive state funds, and Respondent agrees to refund to the state any state funds Respondent receives while ineligible.

7. COMMUNICABLE DISEASE PREVENTION & CONTROL ACT COMPLIANCE

Respondent certifies compliance with the applicable provisions of the Communicable Disease Prevention and Control Act, Texas Health & Safety Code, Chapter 81.

8. CONFLICT OF INTEREST

Section 1: No Texas Juvenile Justice Department staff or Board Member shall have any conflict of interest or potential conflict of interest with the Respondent or any of its agents, including a financial interest, in this Respondent either currently or within the past two (2) years.

Section 2: The Respondent covenants that Respondent has no existing interest and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be employed by Respondent. No Respondent, owner or agent shall have any conflict of interest or potential conflict of interest, including a financial interest with Texas Juvenile Justice Department staff, Board member, Architect/Engineer (A/E), subcontractor, Respondent or supplier affected by the Contract either currently or within the past two (2) years.

Section 3: Any such conflict or potential conflict of interest shall be disclosed to the Owner by the party having such conflict before the execution of the Contract or within (10) days of discovering the conflict. Owner representatives not affected by the conflict or potential conflict shall determine the severity of the conflict, if any, and recommend the appropriate remedial action to resolve the conflict without adversely affecting the interest of the Texas Juvenile Justice Department and its project schedule. Such remedial action could include cancellation of the Contract for the conflicting party.

9. EQUAL OPPORTUNITY

Respondent certifies compliance with all terms, provisions, and requirements of Titles VI and VII, Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, and any other Federal, state, local or other anti-discriminatory act, law, statute or regulation, along with all amendments and

revisions of the acts, laws, statutes or regulations, in the performance of the contract, and will not discriminate against any child or youth, client, employee, or applicant for employment because of race, creed or religion, age, sex, color, national or ethnic origin, handicap, or any other illegal discriminatory basis or criteria.

10. CONTRACTING WITH EXECUTIVE HEAD OF STATE AGENCY

Under Texas Government Code 669.003, Respondent certifies that he/she/it is not the executive head of the state agency, a person who at any time during the four years before the date of this contract was the executive head of the state agency, or a person or business entity that employs a current or former executive head of a state agency. If Respondent meets any of these criteria, Respondent shall provide the following information: Name of former executive, name of state agency, date of separation from state agency, position with Respondent, and date of employment with Respondent.

11. REMITTANCE ADDRESS

If the remittance address is different from the mailing address, Respondent shall enter the remittance address below. Failure to provide this information may impact payment.

12. Verification of Worker Eligibility

If Bidder is not enrolled in the U.S. Department of Homeland Security's E-Verify system ("E-Verify") at time of contract award, Bidder shall:

Enroll in the E-Verify program within 30 calendar days of contract award; and thereafter Use E-Verify to initiate, within 3 business days after the date of hire, verification of employment eligibility of all new hires of Bidder employed during the contract term to perform duties within Texas and all persons (including subcontractors) assigned by the Bidder to perform work pursuant to the contract, within the United States.

If Bidder is enrolled in E-Verify at time of contract award, Bidder shall use E-Verify to initiate, within 3 business days after the date of hire, verification of employment eligibility of all new hires of Bidder employed during the contract term to perform duties within Texas and all persons (including subcontractors) assigned by the Bidder to perform work pursuant to the contract, within the United States.

Bidder shall comply with the requirements of the E-Verify program Memorandum of Agreement (MOU). If the Department of Homeland Security (DHS) or the Social Security Administration (SSA) terminates Bidder's MOU and denies access to the E-Verify system in accordance with the terms of the MOU, TJJD may terminate the contract.

Bidder shall include the requirements of this clause, including this paragraph (appropriately modified for identification of the parties), in each subcontract under the contract that is for services or construction.

Bidder shall provide, upon request of TJJD, an electronic or printed image of the confirmation or non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for each of Bidder's employees, subcontractors, and subcontractors' employees that

meet the criteria above, provided that such dissemination has been authorized in advance by SSA or DHS for legitimate purposes.

If Bidder fails to comply with the requirements of this clause, TJJD may terminate the contract, withhold payment, or impose other administrative error sanctions.

The requirements of this clause only apply to contracts for services or construction.

SECTION X SPECIAL CONDITIONS

The following Special Conditions supplements, modifies, changes, deletes from or adds to the General Conditions as specified herein. Where any Article of the General Conditions is modified or any paragraph or clause thereof is modified or deleted by these Special Conditions, the unaltered provisions of that Article, Paragraph, Sub-Paragraph or Clause of the General Conditions shall remain in effect.

1. CONTRACT DRAWINGS AND SPECIFICATIONS

All specifications required to complete the work described within this RFP is contained within this RFP and may be posted as separate bid packages.

2. SPECIAL SECURITY MEASURES

A. The Contractor shall first secure the construction site with fencing (as indicated on the drawings) before proceeding with other site work.

B. The Contractor shall provide the Owner a list of all civilian construction contractors' employees who will be working on the facility. The Contractor shall daily update/revise the list as employees are added or terminated and provide the owner with the current list in effect. The list shall be in alphabetical order by employees' last name and shall include employees' drivers' license number, social security number and company name. Each employee shall read and sign a copy of the Standards of Conduct for Civilian Construction Contractor's Employees (included herein) acknowledging and agreeing to abide by these standards.

C. Texas Juvenile Justice Department will provide a picture I.D. for all civilian construction contractors' employees who will be working on the facility. All picture I.D.'s will be returned to the Facility Superintendent or designee when an employee is terminated or when the project is completed. The issuance of picture I.D.'s will be coordinated with Texas Juvenile Justice Department. The Contractor's employees must wear picture IDs provided at all time while within the security perimeter.

D. All employees of the Contractor or Sub-Contractor will report to the job site at the scheduled shift time and proceed into the facility as a group. At the end of the work day they will all leave in a similar group. Only work crew supervisors will be allowed to leave the Facility fenced compound under escort to procure additional tools or specialized tools. All employees may eat their lunch in the work area or exit the facility in a group for lunch. Contractor employees may not eat in the Facility's cafeteria.

E. The Contractor will coordinate with Texas Juvenile Justice Department the collection point for employees to enter the fenced compound and measures to be taken to receive required security escort of employees to construction site if through the Facility compound.

F. Tools, generators, ladders, acetylene cutters, vehicular equipment or heavy equipment shall not be stored overnight within the security perimeter unless otherwise accepted.

G. Contractor shall implement measures to disable vehicular or heavy equipment (i.e., vehicles, graders, cherry pickers, etc.) when they are left unattended.

H. Contractors and their employees shall ensure a clear area be maintained a minimum of eight (8) feet from all fences. This area shall be clear of all debris, weeds and other construction material. All work sites will be cleared of construction debris at the end of each day. All debris is to be immediately removed to a secure area or to a designated area for disposal.

I. All vehicles will be searched upon entering and/or exiting the Facility fenced compound.

J. The Texas Juvenile Justice Department reserves the right to adopt any special rules as may be necessary to preserve the security of the institution should they become necessary. Coordination between the Texas Juvenile Justice Department and Contractor shall be made as those situations arise.

3. EQUIPMENT/SYSTEM DEMONSTRATIONS

The equipment/system demonstrations along with the services to provide instruction in the operation and maintenance of equipment and systems to the Owner, as called for in the Technical Specifications, shall be scheduled and performed at a time to be coordinated with the Owner.

4. RELATIONSHIP OF PARTIES

Contractor is acting as an independent contractor and is wholly responsible for the day-to-day operations of its programs and employees; no joint venture, partnership, or agency exists nor shall be implied by the terms of the contract. No employee of Contractor shall become an employee of Texas Juvenile Justice Department by virtue of the contract.

5. CONFIDENTIALITY AND SECURITY

A. Any confidential information provided to or developed by the Contractor in the performance of the Contract shall be kept confidential unless otherwise provided by law and shall not be made available to any individual or organization by the Contractor or the Department without prior approval of the other party.

B. In accordance with Texas Government Code, Section 552.137, an e-mail address that is provided to a governmental body by a vendor who seeks to contract with the governmental body or by the vendor's agent is not confidential and is subject to disclosure under the Open Records Act. .

C. All employees appointed by Contractor who visit any Texas Juvenile Justice Department facility will be required to comply with that facility's security regulations.

6. WAIVER

No waiver by either party of any default of the other under the contract shall operate as a waiver of any future or other default, whether of a like or different character or nature.

7. SEVERABILITY

The provisions of the contract are severable. If any part of the contract is contrary to any federal, state, or local law, it is not applicable and such invalidity shall not affect the other provisions or applications of this agreement which can be given effect without the invalid provision or application.

8. CONTRACT AMENDMENT

No other agreements, oral or written, shall constitute a part of the contract unless such be made in writing, executed by the parties hereto or their successors, and expressly made a part of this Agreement, and approved in writing by the Owner.

9. VENUE

In any legal action arising under the contract, the laws of the State of Texas shall apply and venue shall be in Travis County, Texas.

10. SALES TAX EXEMPTION CERTIFICATE

The TJJD Contract Manager will provide Contractor with an "Exemption Certificate" for tangible personal property included in or to be included in the work.

EXHIBIT A CONTRACTOR PROPOSAL FORM
RFP 644-7-1209416
Pool Infill Project at Giddings State School

PROPOSAL OF: _____
(Contractor Name)

(Contractor Address)

(Contractor Phone No.) (Contractor Phone No.)

DATE: _____

TO: Mr. Steven Vargas, P.E.
Texas Juvenile Justice Department
Engineering & Architecture Department
11209 Metric Blvd., Building H Ste. A
Austin, Texas 78758

REFERENCE: **Giddings State School Pool Infill Project**

Dear Sir:

The undersigned, having carefully examined the Bid Documents and the site of the Work, and being familiar with all conditions relating to the proposed construction, hereby proposes to furnish all labor, materials, services and equipment required for, or incidental to, the construction of the Work in accordance with the Bid Documents, and within the time set forth herein for the lump sum Base Bid of:

Dollars \$ _____

_____.

(Note: Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern.)

Refer to Sheet 8 for Bid Alternates to be provided. Do not include Alternate pricing in the above Bid Amount.

It is understood that the Owner reserves the right to accept or reject any and all bids and to waive all irregularities. It is further agreed that this Bid Proposal and Bid Bond shall be valid and not be withdrawn for a period of ninety (90) days from the date of opening thereof.

The undersigned further agrees, if awarded the contract, to execute the Agreement within ten (10) calendar days after notification of intent to award; and to commence work not later than ten (10) calendar days from date stated in the "Notice to Proceed" from the Owner; and to fully complete the project within (_____ consecutive calendar days) after the date stated in the Notice to Proceed.

The undersigned further agrees that from the compensation otherwise to be paid, the Owner may retain liquidated damages as specified in the Special Conditions.

The undersigned accepts the determinations in the General and Special Conditions regarding information upon which the Respondent can rely, as well as Respondent's responsibility to obtain additional data.

The undersigned hereby acknowledges receipt of the following addenda to the drawings and project manual, all of the provisions and requirements of which have been taken into consideration in preparation of the foregoing bid:

Addendum No. ____ Date _____ Addendum No. ____ Date

Addendum No. ____ Date _____ Addendum No. ____ Date

Addendum No. ____ Date _____ Addendum No. ____ Date

The terms used in this Bid Proposal which are defined in the General Conditions included as part of the Bid Documents have the meanings assigned to them by those General Conditions.

Respondent does ____ / does not ____ qualify as small business as defined by Texas Small Business Act of 1975.

PARTICIPATION BY HISTORICALLY UNDERUTILIZED BUSINESSES

The Respondent agrees that, if awarded the Contract, it will have "Historically Underutilized Businesses," as that term is defined in the Information to Respondents, participate in the Work to the extent of at least **thirty-two and nine tenths percent (32.9%)** of the total dollar amount of the Contract as awarded. Such participation in the Work means that amounts equal to or greater than the stated percentage of the total contract amount will be paid to such Historically Underutilized Businesses for work done under subcontract, for the supply of materials to be incorporated in the Work, and (if the Respondent itself is a Historically Underutilized Business) for work accomplished by the Respondent with its own forces. Double counting shall be avoided.

Respondent: _____ (Legal Signature)

_____ (Type/Print Name)

_____ Title

Business Phone No.: _____

This respondent is a (an): _____
Individual, Partnership, Corporation

The full names, addresses and telephone numbers of all persons interested in this Proposal, as principals are as follows:

CERTIFICATIONS

The Respondent understands it is an independent contractor, wholly responsible for the day to day operations of its programs and employees, that no joint venture, partnership or agency exists nor shall be implied by the terms of the contract if the contract is awarded to Respondent; and that no employee of Respondent will become an employee of TJJD by virtue of the contract.

The Respondent understands it will indemnify and hold harmless TJJD and its officers, directors, agents, employees and representatives from and against any and all liability for any and all claims, suits, demands, causes of action, and or damages including costs of court and reasonable attorney's fees arising from or based upon intentional or negligent acts or missions on the part of Respondent, its officers, directors, agents, representatives, employees, or visitors which may arise out of or could result from the contract if Respondent is awarded the contract.

The Respondent understands that it and its employees will comply with state and federal law and with TJJD policies regarding the confidentiality of student records and identifying information.

The Respondent certifies compliance with Sec. 231.006 Family Code and understands and acknowledges if awarded the contract, it will provide the name, social security number of an individual owner, a sole proprietor and all partners, shareholders or owners with an ownership interest of at least twenty five percent of the business entity entering into the contract if Respondent is awarded the contract.

The Respondent certifies it has not been found guilty in a judicial or state administrative agency proceeding of unfair business practices within the year preceding the effective date of the contract should it be awarded Respondent.

Respondent certifies that should it be subject to payment of franchise taxes, all franchise taxes are current.

Respondent understands that the contract may be terminated by TJJD in the event TJJD is not granted funding to pay for the services described in the contract documents or in the event that funding is lost due to either a reduction in the budget or a reallocation of budgeted funds and that funding of TJJD is limited to funding actually authorized by the legislature of the State of Texas.

The Respondent understands that should the contract be awarded to Respondent, any dispute arising under the contract not settled by agreement between the parties shall be decided by the Executive Director of Texas Juvenile Justice Department who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Respondent. The decision of the Executive Director of TJJD shall be final and conclusive unless a formal Dispute Resolution Process is initiated within 30 days after the receipt of notice by either party. The Formal Dispute Resolution Process will be conducted pursuant to TJJD General Administrative Policy 385.1111.

NOTE: This Proposal must bear the written signature of the Respondent.

- a. If the Respondent is an Individual doing business under a name other than his own name, the Proposal must so state, giving the address of the Individual.
- b. If the Respondent is a Partnership, the Proposal must so state, setting forth the names and addresses of all Partners, and must be signed by a Partner so designated as such.
- c. If the Respondent is a Corporation, the Proposal must be signed by a duly authorized officer or agent of such Corporation.

EXHIBIT B ENGINEERING REPORT PREPARED BY TJJD

Documents are posted separately as Bid Package #2

EXHIBIT C HUB Subcontracting Plan (HSP)

Documents are posted separately as Bid Package #3

EXHIBIT D Contractor's Qualification Form RFP 644-7-120416

Exhibit D, Contractor's Qualification Form is posted separately as bid package #4

EXHIBIT E General Conditions RFP 644-7-120416

Exhibit E, General Conditions is posted separately as bid package #5

**EXHIBIT F STANDARDS OF CONDUCT
FOR CIVILIAN CONSTRUCTION CONTRACTORS EMPLOYEES**

I. SECURITY MEASURES

A. No person working for or otherwise connected with the Contractor (his agents, subcontractors or their employees) shall be allowed to bring onto the owner's (state) property firearms, alcoholic beverages, drugs, tobacco products or any other controlled substances with the exception of prescription medication. No such person shall cross any fences, except those fences designated to allow egress and ingress to the construction site. All vehicles shall be kept locked with windows up while on the owner's property. Contractors' employees shall avoid all contact with TJJD Youth; no employee shall converse with or otherwise communicate with any TJJD Youth. In addition to the usual civil and/or criminal penalties for violations of the above regulations, the owner reserves the right to refuse further entry to the job site to any individual who has violated the above restrictions. Further, the Owner reserves the right to immediately remove from the job site any individual who has violated the above restrictions.

B. The Contractor's employees will be subject to a criminal background check performed through the agency which provides the National Instant Criminal Background Check (NICS)

II. EXPECTATIONS OF CONTRACTORS AND SUBS

A. ALL CONTRACTORS, SUBS, AND THEIR EMPLOYEES WILL:

Read and sign the Texas Juvenile Justice Department of Conduct for Civilian Contractor Employees.

Refrain from bringing firearms, ammunition, alcoholic beverages, tobacco products, drugs (with the exception of prescription drugs) or any other contraband items on the property of the Texas Juvenile Justice Department. This includes in the personal vehicles of the on-site workers.

Assure that vehicles will remain locked at all times when operator is absent.

Assure that there shall be no contact with any TJJD Youth in the TJJD facility.

Understand that approved visitors of TJJD Youth will not be allowed to work on any project that involves contractor work at this facility.

Understand that vehicles are subject to search at any time while on State property.

Understand that shorts, opened-toed shoes sleeveless tops, tattoos or body paintings, metal nail files or nail clippers, any type of pornographic materials, pagers & cell phones (unless job issued and necessary) cameras, glass bottled drinks, opened container drinks are strictly forbidden on campus. Only plastic bottled or unopened carton drinks will be allowed.

B. GENERAL SECURITY FOR TOOL CONTROL.

All tools including Class "A" are to be inventoried and properly accounted for at the end of each work day.

Any changes to an individual's tool box inventory should be immediately reported to the Facility Superintendent or his designee.

Tools should be accounted for at all times by the individual responsible for the use of such tools. When Class "A" tools are not in use, they shall be kept and locked under key in a secure area and if possible rendered inoperable. Class "A" tools include, but are not limited to, tools most likely to be used in an escape attempt or do bodily harm. These generally include hacksaw blades, files, pipe wrenches, ladders, acetylene cutting tips, pipe and bolt cutters, etc.

At no time are Class "A" tools to be left unattended and when in use, special care taken to insure their security. Any loss of any tool shall be reported to the Facility Superintendent or its designee.

Generators, ladders and acetylene cutters all must be secured at the end of each work day.

Emery wheels will be locked and rendered inoperable when not in use unless stored outside of the secured perimeter.

All hazardous and poisonous chemicals, not in use, are to be stored in a locked tool trailer or other secure area. An inventory shall be maintained and direct supervision provided when the items are used at the work site. Upon completion of the project, the Contractor will be responsible for the removal of all hazardous materials and all hazardous waste generated under his control.

I have received a copy of the "STANDARDS OF CONDUCT FOR CIVILIAN CONSTRUCTION CONTRACTORS EMPLOYEES" issued by the Texas Juvenile Justice Department or its contracted construction manager, the Texas Juvenile Justice Department.

I have read, understand and will comply with this policy.

SIGNATURE

COMPANY

DATE

NAME

ADDRESS

CITY

STATE

ZIP

EXHIBIT G NOTICE OF AWARD

PROJECT #: 7660-734103-DE040-GID-25INFILLPOOL-2017

RFP: 644-6-120416

RFP ISSUED: December 7, 2016

Project: Giddings State School – Pool Infill Project

ISSUED BY: TEXAS JUVENILE JUSTICE DEPARTMENT
11209 Metric Blvd, Bldg H, Ste A
Austin, Texas 78758

OFFER FROM: _____

TELEPHONE: _____

FAX: _____

FACILITY: Giddings State School

_____ agrees to construct the work in accordance with its proposal submission dated _____, and Proposal Package dated _____, all documents of which are attached hereto and incorporated herein for all purposes.

The Texas Juvenile Justice Department agrees to pay _____ for the work the sum of _____ Dollars and NO/100 (\$ _____).

Commencement of work under the Contract shall begin on the date to be specified in a written Notice-to-Proceed (Work Order) issued by the Owner and the project is to be fully completed on or before _____ calendar days after that specified date unless otherwise subsequently agreed in writing.

SIGN ON THE DATES INDICATED BELOW.**Contractor's Authorized Signature**

Phone () ____ - _____

Fax () ____ - _____

Dated: _____

David Reilly
Executive Director
Texas Juvenile Justice Department
Austin, Texas 78758
(512) 490-7004

Dated: _____

Approved as to Form:

Staff Attorney
Texas Juvenile Justice Department

EXHIBIT H NON-COLLUSION AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

By the signature below, the signatory for the proposer/respondent certifies that neither he nor the firm, corporation, partnership or institution represented by the signatory or anyone acting for the firm proposing/bidding this project has violated the antitrust laws of this State, codified at Texas Business and Commerce Code, Chapter 15, or Federal antitrust laws, nor communicated directly or indirectly the proposal/bid made to any competitor or any other person engaged in the same line of business, nor has the signatory or anyone acting for the firm, corporation or institution submitting a proposal/bid committed any other act of collusion related to the development and submission of this proposal/bid.

Signature: _____

Printed Name: _____

Printed

Name: _____

Title: _____

Company: _____

Date: _____

SUBSCRIBED and sworn to before me the undersigned authority by _____ the _____ of, _____ on behalf of said proposer.

Notary Public in and for the
State of Texas

My commission expires: _____

EXHIBIT I PAYMENT BOND

**TEXAS STATUTORY PAYMENT BOND
CHAPTER 2253 TEXAS GOVERNMENT CODE
(PUBLIC WORK PERFORMANCE BONDS)**

STATE OF TEXAS
COUNTY OF _____:

KNOW ALL MEN BY THESE PRESENTS:

That we, _____ as Principal, and as Surety are hereby held and firmly bound unto the State of Texas in the penal sum of _____ Dollars (\$_____) for the payment whereof, the said Principal and Surety Bond themselves, their heirs, executors, administrators and successors, jointly and severally, firmly by these Presents.

The conditions of this obligation are such that whereas the Principal entered into a certain Contract, hereto attached, and made a part hereof with the State of Texas, acting by and through the Texas Juvenile Justice Department, dated _____ for the _____.

NOW, THEREFORE, the conditions of this obligation are such that, if the Principal shall promptly make payments to all claimants as defined in Chapter 2253 Texas Government Code, supplying labor and materials in the prosecution of the work provided for in said Contract, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

This bond is made and entered into solely for the protection of all claimants supplying labor and material in the prosecution of the work provided for in said Contract, and all such claimants shall have a direct right of action under the Bond as provided in Chapter 2253 Texas Government Code..

In WITNESS WHEREOF, the above bound parties have executed this instrument under their several seals this day of _____, 20__, the name and corporate seal of each party being hereto affixed and these presents duly signed by its undersigned representative pursuant to authority of its governing body.

SEAL:
ATTEST:

SURETY’S AGENT:

COMPANY NAME

PRINCIPAL ADDRESS

BY: CITY, STATE, ZIP CODE

SURETY TELEPHONE:

BY:

EXHIBIT J PERFORMANCE BOND**TEXAS STATUTORY PERFORMANCE BOND
CHAPTER 2253 TEXAS GOVERNMENT CODE
(PUBLIC WORK PERFORMANCE AND PAYMENT BONDS)****STATE OF TEXAS:****COUNTY OF _____:**

LET IT BE KNOWN BY THIS INSTRUMENT:

That we, _____, as Principal
and we, _____, a Corporation
duly authorized to do business in this State, as Surety(s), are this date held and firmly bound unto the State of Texas in the amount of _____ Dollars (\$ _____) for the payment of which indemnity the said Principal and Surety, by this declaration, do firmly bind themselves, their heirs, executors, administrators, successors and assigns, jointly and individually.

Since a Contract, which by reference is made a part hereof, exists between the Principal and the State of Texas, acting by and through the Texas Juvenile Justice Department, and dated _____ for _____ the conditions of this obligation are, therefore, such that it shall remain in full force and effect unless and until the Principal shall faithfully perform the Contract in accordance with the Contract Documents.

In the event of Principal's failure, as defined by the Contract Documents, to faithfully perform the Contract, Surety(s) will within fifteen (15) days of determination of default, assume full responsibility for completion of said Contract and become entitled to payment of the balance of the Contract amount, or the Surety shall make other arrangements satisfactory with the Texas Juvenile Justice Department for the completion of the defaulted work but in no event shall the Surety's liability exceed the penalty of this bond.

The liabilities, rights, limitations and remedies concerning this Bond shall be determined in accordance with the provisions of Chapter 2253 Texas Government Code, pursuant to which this Bond is executed.

IN WITNESS TO THIS DECLARATION, the said Principal and Surety(s) have signed and sealed this instrument this _____ day of _____, 20__.

PRINCIPAL

SURETY

By _____

By _____

Bond Identification No. _____

Address of Attorney-in-fact _____

(Use of this form for the purposes indicated has been approved by the Attorney General of Texas)

EXHIBIT K FINAL COMPLETION CERTIFICATE

Contract No.: _____

TJJD RFP No.: 644-7-120416

PROJECT: _____

LOCATION: _____

CONTRACTOR: _____

CONTRACT FOR: _____

THE TEXAS JUVENILE JUSTICE DEPARTMENT confirms that, to the best of its knowledge, information, and belief, the work for this Project has been completed in accordance with the terms and conditions of the Contract Documents.

The Texas Juvenile Justice Department further confirms that to the best of its knowledge, information, and belief, the entire balance is due the Contractor.

(\$ _____), as noted in the final Construction Voucher, is due and payable to the Contractor in accordance with the General Conditions.

Final payment from the Texas Juvenile Justice Department shall constitute a waiver of all claims by the Texas Juvenile Justice Department except for those arising from:

1. Unsettled liens
2. Faulty or defective work appearing after completion
3. Failure of the work to comply with the requirements of the Contract Documents
4. Terms of any special warranties required by the Contract Documents
5. The Owner's rights under any warranty or guarantee

ACCEPTANCE OF FINAL PAYMENT BY THE CONTRACTOR SHALL CONSTITUTE A WAIVER OF ALL CLAIMS BY THE CONTRACTOR.

ARCHITECT_____
DATE_____
CONTRACTOR_____
DATE_____
TEXAS JUVENILE JUSTICE DEPARTMENT_____
DATE

EXHIBIT L EXECUTION OF OFFER

NOTE: RESPONDENT SHALL COMPLETE AND RETURN THIS EXHIBIT WITH PROPOSAL. FAILURE TO DO SO WILL RESULT IN DISQUALIFICATION OF THE PROPOSAL.

By signature hereon, the Respondent certifies that:

All statements and information prepared and submitted in the response to this RFP are current, complete and accurate.

He/she has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response. Failure to sign the Execution of Offer or signing it with a false statement shall void the submitted Offer or any resulting contracts.

Neither the Respondent nor the firm, corporation, partnership, or institution represented by the Respondent or anyone acting for such firm, corporation, partnership, or institution has violated the antitrust laws of this State, codified in Texas Business and Commerce Code Chapter 15, or the Federal antitrust laws, nor communicated directly or indirectly the Offer made to any competitor or any other person engaged in such line of business. By signing this Offer, Respondent certifies that if a Texas address is shown as the address of the Respondent, Respondent qualifies as a Texas Resident Bidder as defined in Texas Administration Code, Title 34, Sec. 20.32(68).

Under Section 2155.006(b) of the Texas Government Code, a state agency may not accept a bid or award a contract including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other natural disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other natural disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified contract and acknowledges that any contract resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.

Under Texas Government Code § 2155.004, no person who prepared the specifications or this RFP has any financial interest in Respondent's Proposal. If Respondent is not eligible, then any contract resulting from this RFP shall be immediately terminated. Furthermore, under Section 2155.004, Government Code, the Contractor [Respondent] certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

Under Family Code § 231.006, relating to child support obligations, Respondent and any other individual or business entity named in this solicitation are eligible to receive the specified payment and acknowledge that this contract may be terminated and payment withheld if this certification is inaccurate.

The response includes the names and Social Security Numbers of each person with a minimum of twenty-five percent (25%) Ownership of the business entity submitting the response.

Name: _____ Social Security Number: _____

Name: _____ Social Security Number: _____

Name: _____ Social Security Number: _____

Under Texas Government Code §669.003, relating to contracting with an executive of a state agency, Respondent represents that no person who, in the past four years, served as an executive of the Texas Comptroller of Public Accounts, TJJD or any other state agency, was involved with or has any interest in this Proposal or any contract resulting from this RFP. If Respondent employs or has used the services of a former executive head of TJJD or other state agency, then Respondent shall provide the following information: Name of former executive, name of state agency, date of separation from state agency, position with Respondent, and date of employment with Respondent.

TJJD is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing providers/vendors with the Federal General Services Administration's System for Award Management (<http://www.sam.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control Specially Designated National list.

Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

Respondent represents and warrants that the individual signing this Execution of Offer is authorized to sign this document on behalf of the Respondent and to bind the Respondent under any contract resulting from this Offer.

Under Texas Government Code Section 2252.908, TJJD may not enter into certain contracts with a business entity unless the business entity, in accordance with Section 2252.908 and rules adopted by the Texas Ethics Commission ("TEC"), submits a disclosure of interested parties to TEC and TJJD at the time the business entity submits the signed contract to TJJD. The law applies only to a contract that either (1) requires an action or vote by TJJD's board before the contract may be signed or (2) has a value of at least \$1 million. The law defines "interested party" as "a person who has a controlling interest in a business entity with whom a governmental entity or state agency contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity." Prior to signing a contract of the type described by Section 2252.908, the respondent selected for award of a contract shall comply with the requirements of Section 2252.908. TEC developed a Certificate of Interested Parties form (Form 1295), administrative rules (Texas Administrative Code Title 1, Chapter 46), and an electronic filing application to implement the law. Business entities must use TEC's application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized. The completed Form 1295 with the certification of filing must be filed with TJJD. TJJD will then notify TEC, using TEC's filing application, of the receipt of the filed Form 1295 with the certification of filing not later than the 30th day after the date the contract becomes binding on all parties. TEC will post the completed

Form 1295 to its website within seven business days after receiving notice from TJJD. More information can be found on TEC's website at <https://www.ethics.state.tx.us/tec/1295-Info.htm>.

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under a contract or indirectly through a subcontract under the contract. Acceptance of funds directly under any resulting contract or indirectly through a subcontract under such contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Respondent shall ensure that this paragraph, concerning the authority to audit funds received indirectly by subcontractors through the Respondent and the requirement to cooperate, is included in any subcontract it awards under any resulting contract.

Respondent certifies that it has not been an employee of TJJD within the last twelve (12) months.

RESPONDENT (COMPANY): _____

SIGNATURE (INK): _____

NAME (TYPED/PRINTED) _____

TITLE: _____ **DATE:** _____

STREET: _____

CITY/STATE/ZIP: _____

TELEPHONE AND FACSMILE NO.: _____

PAYEE IDENTIFICATION NUMBER: _____ **or**

FEDERAL TAXPAYER IDENTIFICATION NUMBER: _____